

04-27959

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Chapter 13 Case:

Case Number BKY 04-33470-DDO

Val Steiger,

Debtor(s)

**NOTICE OF HEARING AND MOTION
FOR RELIEF FROM STAY**

To: The Debtor and other entities specified in Local Rule 9013-3(a).

1. Mortgage Electronic Registration Systems, Inc. moves the Court for relief requested below and gives Notice of Hearing.

2. The Court will hold a Hearing on this motion at 9:30 a.m., on September 27, 2004, in Courtroom No. 228A, at the United States Courthouse, at 316 North Robert Street, St. Paul, Minnesota.

3. Any response to this motion must be filed and delivered no later than September 22, 2004, Which is three days before the time set for the hearing(excluding Saturdays, Sundays, and holidays), or filed and served by mail no later than September 16, 2004, which is seven days before the time set for the hearing(excluding Saturdays, Sundays, and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 13 case was filed on June 11, 2004. The case is now pending in this court.

5. This Motion arises under 11 U.S.C. §362 and Bankruptcy Rule 4001. This motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1 - 9019-1(d). Movant Requests Relief with respect to exempt property of the debtor subject to a lien.

6. On August 29, 2003, Val A. Stieger, single made, executed and delivered to General Mortgage Finance Corp her Note (hereinafter referred to as the "Note"), in the original principal amount of \$143,500.00 bearing interest from the date thereof at the rate of 7.99% per annum until paid, payable in monthly installments commencing on the first day of each and every calendar month thereafter until the principal and interest were fully paid.

7. On August 29, 2003, to secure the payment of the Note, Val A. Stieger, single, executed and delivered to General Mortgage Finance Corp her Mortgage (hereinafter referred to as the "Mortgage"), mortgaging and conveying certain real estate in Mower County, Minnesota, legally described as follows:

A tract of land in the Northwest Quarter of the Northeast Quarter of Section 14, Township 104 North of Range 15 West, Mower County, Minnesota, being described by metes and bounds as follows:

Commencing at the Northeast corner of said Northeast Quarter; thence south 89 degrees 38 minutes 53 seconds west, assumed bearing, along the North line of said Northeast Quarter, 1322.84 feet to the Northeast corner of said Northwest Quarter of the Northeast Quarter; thence South 00 degrees 41 minutes west, along the East line of said quarter quarter section 835.00 feet for a point of beginning, thence North 89 degrees 19 minutes West, 615.00 feet; thence South 00 degrees 41 minutes west, 354.15 feet; thence south 89 degrees 19 minutes East, 615.00 feet to the east line of said quarter quarter section; thence North 00 degrees 41 minutes east, along said East line, 354.15 feet to the point of beginning. Being subject to the township road right of way over the Easterly boundary thereof. Containing 5.00 acres.

which property has an address of: 31811 727TH AVE., RACINE, MN 55967. The mortgage was filed for record in the office of the Recorder, County of Mower, on December 1, 2003, as Document No. 524173, and was subsequently assigned to Movant by assignment of mortgage. A copy of the mortgage and assignment are attached hereto as Exhibit "A" and made a part hereof by reference.

8. The debtors have filed a plan dated June 11, 2004, which was confirmed by subsequent Court Order. The plan provided, among other things that:

"5. Home Mortgages In Default [§1322(b)(5)] - The trustee will cure defaults on claims secured only by a security interest in real property that is the debtor's principal residence as follows. The debtor will maintain the regular payments which come due after that date the petition was filed. The creditors will retain their liens. The amounts of default are estimates only. The trustee will pay the actual amounts of default.

9. Notwithstanding the foregoing provisions of said plan, the debtors have not maintained current payments with respect to said note and mortgage, while this case is pending.

10. Debtors are in arrearage for monthly payments as shown below. The last payment received from Debtors was applied to the June, 2004 post-petition payment as that was the next payment due. Post-petition arrearage include the following:

1 payments @ \$1,051.95	\$1,051.95
2 payments @ \$1,120.20	\$2,240.40
2 late charges 52.60	\$105.20

BPO	\$105.00
Attorneys Fees & Costs	\$800.00
TOTAL POST – PETITION	<u>\$4,302.55</u>

No payments have been made pursuant to the plan. Amounts currently due and owing include the following:

Principal Balance	\$143,306.40
Interest	\$4,329.06
BPO	\$105.00
Attorneys Fees & Costs	\$2,582.00
TOTAL	<u>\$150,322.46</u>

11. Debtors have claimed said mortgaged property as exempt pursuant to MSA 510.01, 510.02.

12. By reason of the foregoing, good cause exists to lift the automatic stay imposed by 11 USC section 362 to allow Movant to pursue its remedies under State Law.

13. **This is an attempt to collect a debt and any information obtained will be used for that purpose.** This notice is required by the provisions of the Fair Debt Collection Practices Act and does not imply that we are attempting to collect money from anyone who has discharged the debt under the Bankruptcy Laws of the United States.

Wherefore, Mortgage Electronic Registration Systems, Inc. moves the court:

1. For an Order granting creditor relief from the automatic stay of 11 USC section 362.
2. For such other and further relief as the Court finds just and proper.

Dated: 9.2.04.

Signed: /e/ NANCY A. NORDMEYER

SHAPIRO & NORDMEYER, L.L.P.
 Nancy A. Nordmeyer-121356
 Lawrence P. Zielke-152559
 Attorney for movant
 7300 Metro Boulevard #390
 Edina, MN 55439-2306
 (952) 831-4060

VERIFICATION

I, Dan Ainter, the Bankruptcy Manager for Fidelity National Foreclosure Solutions, the authorized servicer for movant, the movant named in the foregoing notice of hearing and motion, declare under penalty of perjury, that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on:

8.30.04

Signed:

[Signature]

Fidelity National Foreclosure Solutions
1270 Northland Drive, Suite 200
Mendota Heights, MN 55120

OFFICE OF COUNTY RECORDER
MOWER COUNTY MINNESOTA

DOCUMENT NO. **524173**

I hereby certify that the within instrument was filed in this
office for record on 12/1 /2003 at 12 AM PM

Susan M. Davis, County Recorder

Jill Cords
Deputy

REC # 65788

REGISTRATION TAX HEREON OF \$330.05

PAID THIS 1st DAY OF Dec 2003

Douglas E. (m) CO. TREAS.

OWLS

[Space Above This Line For Recording Data]

MORTGAGE

After Recording Return To:

GENERAL MORTGAGE FINANCE CORP
5775 WAYZATA BOULEVARD, SUITE 845
ST. LOUIS PARK, MINNESOTA 55416
Loan Number: 99-1504

PT-13012
AFTER RECORDING, PLEASE RETURN TO:

EXCEL TITLE, LLC
6900 WEDGWOOD ROAD #450
MAPLE GROVE, MN 55311

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated AUGUST 29, 2003, together with all Riders to this document.

(B) "Borrower" is VAL A. STIEGER, A SINGLE PERSON

Borrower is the mortgagor under this Security Instrument.

(C) "Lender" is GENERAL MORTGAGE FINANCE CORP

Lender is a CORPORATION

and existing under the laws of MINNESOTA

Lender's address is 5775 WAYZATA BOULEVARD, SUITE 845, ST. LOUIS PARK, MINNESOTA 55416

Lender is the mortgagee under this Security Instrument.

(D) "Note" means the promissory note signed by Borrower and dated AUGUST 29, 2003

The Note states that Borrower owes Lender ONE HUNDRED FORTY THREE THOUSAND FIVE HUNDRED AND 00/100 Dollars (U.S. \$143,500.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than SEPTEMBER 1, 2033

(E) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(F) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

OFFICE OF COUNTY RECORDER
MOWER COUNTY MINNESOTA

DOCUMENT NO. **527250**

I hereby certify that the within instrument was filed in this
office for record on 3/15/2004 at 10:00 PM
Susan M. Davis, County Recorder

[Signature]
Deputy

[Space Above This Line For Recording Data]

GENERAL MORTGAGE FINANCE CORP
5775 WAYZATA BOULEVARD, SUITE 845
ST. LOUIS PARK, MINNESOTA 55416
Loan Number: 99-1504

22-099 67 **CORPORATION ASSIGNMENT OF MORTGAGE** 8664340
FOR VALUE RECEIVED, the undersigned ("Assignor") hereby sells, transfers and assigns to 4756

all of Assignor's right, title and interest in and to that certain Mortgage dated AUGUST 29, 2003 ("Assignee")
executed by VAL A. STIEGER, A SINGLE PERSON

to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., as mortgagor,
organized and existing under the laws of Delaware
PO Box 2026, Flint, MI 48501-2026

and recorded concurrently herewith as Document Number 524173 (or in Book
of 12-01-03 Page), in the Official Records of either the County Recorder or the Registrar of
Titles, as the case may be, of MOWER County, MINNESOTA, describing land therein as
SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS
EXHIBIT "A".
A.P.N. #: 14-008-0060

TOGETHER with the note or notes therein described or referred to, the money due and to become due
thereon with interest, and all other rights accrued or to accrue under said Mortgage

DATE AUGUST 29, 2003
STATE OF MINNESOTA
COUNTY OF ~~MOWER~~ HENNEPIN

On AUGUST 29, 2003 before me,
GARY L. JORDAHL Notary Public, personally appeared
DANIEL LINDGREN, PRESIDENT OF
GENERAL MORTGAGE FINANCE CORP

personally known to me (or proved to me on the basis of satisfactory
evidence) to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s)
on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature



(Seal)

GENERAL MORTGAGE FINANCE CORP,
A MINNESOTA CORPORATION

[Signature]
DANIEL LINDGREN/PRESIDENT

90840 Batch 637560304 22-099

After Recording Return To:
PEELLE MANAGEMENT CORPORATION
4690 LONGLEY LANE, Suite #8
RENO, NV 89506

LN#8664340 MIN# 1002696-0008664340-1
NERS# 1-888-679-6377

Drafted by: Gary L. Jordahl
General Mortgage Finance Corp
5775 Wayzata Boulevard, Suite 845
St. Louis Park, MN 55416

MINNESOTA CORPORATION ASSIGNMENT OF MORTGAGE

DocMagic 800-440-1362
www.docmagic.com

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Case No. 04-33470-DDO
Chapter 13

Val Steiger,

Debtor(s)

MEMORANDUM OF LAW

Mortgage Electronic Registration Systems, Inc. ("Movant"), submits this memorandum of law in support of its motion for relief from the stay in the above-entitled matter.

FACTS

Movant holds a valid, duly perfected mortgage on real property owned by the Debtors. On the date this case was filed, the Debtor(s) were delinquent in respect of payments due under the note and mortgage. Since this case was filed, Debtor(s) are in arrears in the total amount of \$4,302.55.

ARGUMENT

1. Under Section 362(d)(1) of the Bankruptcy Code, relief from the automatic stay shall be granted upon request of a creditor "for cause, including the lack of adequate protection of an interest in property of such creditor." 11 U.S.C. Sec. 362 (d) (1). The Debtor(s) in this case have failed to make the payments required by the note and mortgage for a period of more than 2 months. Debtor(s) have not otherwise provided Movant with adequate protection of its interest in the property. Such circumstances constitute cause, within the meaning of Section 362 (d) (1), justifying relief from the stay. In Re Video East, Inc., 41 B. R. 176 (Bkrcty. E. D. Pa. 1984); In Re Frascatore, 33 B. R. 687 (Bkrcty. E. D. Pa. 1983).

2. Pursuant to Section 362 (d) (2) of the Bankruptcy Code, relief from the stay is also appropriate where Debtor(s) have no equity in the subject property and the property is not necessary to an effective reorganization. 11 U.S.C. Sec. 362 (d) (2). See, In Re Gellert, 55B.R. 970 (Bkrcty. D. N. H. 1983). In the present case the balance due Movant on the note and mortgage is \$150,322.46.

Accordingly, Movant is entitled to an order terminating the stay and authorizing it to foreclose its mortgage on the property.

Dated: a.2.04

Respectfully submitted,
SHAPIRO & NORDMEYER, L.L.P.

Signed: /e/ NANCY A. NORDMEYER
Nancy A. Nordmeyer-121356
Lawrence P. Zielke-152559
Attorney for Movant
7300 Metro Boulevard #390
Edina, MN 55439-2306
(952) 831-4060

SWORN CERTIFICATE OF SERVICE

STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

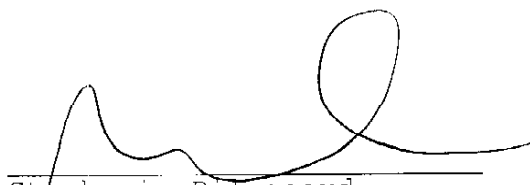
I, **Stephanie Pilegaard** says that on September 2, 2004, I mailed copies of the annexed Memorandum of Law, Proposed Order for Relief from Stay, Notice of Hearing and Motion for Relief from Stay and Certificate of Service on the following interested parties at their last known address, by mailing to them, via first class mail, a copy thereof, enclosed in an envelope, postage prepaid and by depositing the same in the post office at Edina, Minnesota.

Val Steiger
31811 727th Ave
Racine, MN 55967

William Bodensteiner, Esq.
309 S. Main Street
Austin, MN 55912

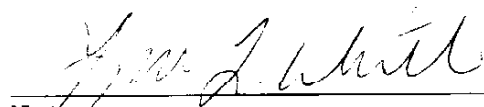
Jasmine Z. Keller, Trustee
12 South 6th Street, #310
Minneapolis, MN 55402

U.S. Trustee
1015 U.S. Courthouse
300 South 4th St.
Minneapolis, MN 55415

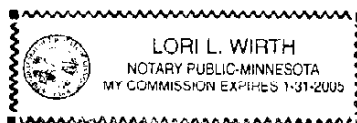


Stephanie Pilegaard

Subscribed and sworn to before me September 2, 2004.



Notary



04-27959

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Case No. 04-33470-DDO

Val Steiger,

Debtor(s)

ORDER FOR RELIEF FROM STAY

The above-entitled matter came for hearing on September 27, 2004.

THIS CAUSE coming to be heard on the Motion of Mortgage Electronic Registration Systems, Inc., a creditor in the proceeding, the Court having jurisdiction, due notice having been given, and the Court having been advised in the premises;

IT IS HEREBY ORDERED,

That the automatic stay heretofore entered in this case is modified to the extent necessary to allow Mortgage Electronic Registration Systems, Inc., its successors and/or assigns, to foreclose in accordance with state law, the mortgage on the real property commonly known as:

A tract of land in the Northwest Quarter of the Northeast Quarter of Section 14, Township 104 North of Range 15 West, Mower County, Minnesota, being described by metes and bounds as follows:
Commencing at the Northeast corner of said Northeast Quarter; thence south 89 degrees 38 minutes 53 seconds west, assumed bearing, along the North line of said Northeast Quarter, 1322.84 feet to the Northeast corner of said Northwest Quarter of the Northeast Quarter; thence South 00 degrees 41 minutes west, along the East line of said quarter quarter section 835.00 feet for a point of beginning, thence North 89 degrees 19 minutes West, 615.00 feet; thence South 00 degrees 41 minutes west, 354.15 feet; thence south 89 degrees 19 minutes East, 615.00 feet to the east line of said quarter quarter section; thence North 00 degrees 41 minutes east, along said East line, 354.15 feet to the point of beginning. Being subject to the township road right of way over the Easterly boundary thereof. Containing 5.00 acres.

NOTWITHSTANDING Federal Rule of Bankruptcy Procedure 4001 (a)(3), this order is effective immediately.

Dated: _____

BY THE COURT:

Judge of Bankruptcy Court